



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue S.E., Suite 400
Aberdeen, South Dakota 57401



IN REPLY REFER TO:
DESCRM
MC-208

MAY 10 2012

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Acting Regional Director, Great Plains Region

SUBJECT: Environmental Assessment Addendum and Finding of No Significant Impact

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, an Environmental Assessment Addendum has been completed and a Finding of No Significant Impact (FONSI) has been issued. The Addendum authorizes land use for an additional well on the Grassy Knoll #2-11H well pad, expand the Right-of-Way for installation of a utility corridor, and add a gathering line spur to tie into the Saddle Butte trunk line on the Fort Berthold Indian Reservation.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the EA, FONSI and Notice of Availability. The Council on Environmental Quality (CEQ) regulations require that there be a public notice of availability of the (40 C.F.R. Section 1506.6(b)) Please post the attached notice of availability at the Agency and Tribal buildings for 30 days.

If you have any questions, please call Marilyn Bercier, Regional Environmental Scientist, Division of Environment, Safety and Cultural Resources Management, at (605) 226-7656.

Attachment

cc: Tex Hall, Chairman, Three Affiliated Tribes (with attachment)
Elgin Crows Breast, Tribal Historic Preservation Officer (with attachment)
Derek Enderud, BLM, Bureau of Land Management (with attachment)
Wade Epperson, SWCA (with attachment)
Eric Wortman, EPA (with attachment)
Jonathon Shelman, Corps of Engineers
Jeff Hunt, Fort Berthold Agency

Finding of No Significant Impact

Enerplus Resources

Addendum to Environmental Assessment to Authorize an Additional Well on the Grassy Knoll #2-11H Well Pad, Expand the Right-of-Way for Installation of a Utility Corridor, and Add a Gathering Line Spur to Tie Into the Saddle Butte Trunk Line

Fort Berthold Indian Reservation McKenzie County, North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal to authorize land use for an additional well on the Grassy Knoll #2-11H Well Pad, expand the Right-of-Way for installation of a utility corridor, and add a gathering line spur to tie into the Saddle Butte trunk line on the Fort Berthold Reservation. The proposed Banjo #149-94-02B-01H TF well would be located on the approved Grassy Knoll #2-11H well pad in the NW¼ NE¼ of Section 2, Township (T) 149 North (N), Range (R) 94 West (W) in McKenzie County, North Dakota, 5th Prime Meridian (P.M.), McKenzie County, North Dakota (Appendix A). The Grassy Knoll #2-11H/Banjo #149-94-02B-01H TF access road and gathering line spur would be located on tribal land originating from an existing oil development road off of Highway 22, approximately 9 miles northwest of Mandaree, North Dakota, in the NE¼ NE¼ of Section 34, T150N, R94W, 5th P.M., McKenzie County, North Dakota. The proposed access road would terminate at the approved Grassy Knoll #2-11H well pad.


Associated federal actions by BIA include determinations of impacts and effects regarding environmental resources for developments on tribal lands.

The potential of the proposed actions to impact the human environment is analyzed in the attached addendum to an existing EA, as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that the proposed project will not significantly affect the quality of the human environment. No Environmental Impact Statement is required for any portion of the proposed activities.

This determination is based on the following factors:

1. Agency and public involvement solicited for the preceding NEPA document was sufficient to ascertain potential environmental concerns associated with the currently proposed project.
2. Protective and prudent measures were designed to minimize impacts to air, water, soil, vegetation, wetlands, wildlife, public safety, water resources, and cultural resources. The remaining potential for impacts was disclosed for both the proposed actions and the No Action alternative.
3. Guidance from the U.S. Fish and Wildlife Service has been fully considered regarding wildlife impacts, particularly in regard to threatened or endangered species. This guidance includes the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", and the Endangered Species Act (16 U.S.C. 1531 et seq.).
4. The proposed actions are designed to avoid adverse effects to historic, archaeological, cultural and traditional properties, sites and practices. Compliance with the procedures of the National Historic Preservation Act is complete.
5. Environmental justice was fully considered.
6. Cumulative effects to the environment are either mitigated or minimal.

7. No regulatory requirements have been waived or require compensatory mitigation measures.
8. The proposed projects will improve the socio-economic condition of the affected Indian community.


Regional Director

5/10/12
Date

Notice of Availability and Appeal Rights

Enerplus: Addendum to Environmental Assessment to Authorize an Additional Well on the Grassy Knoll #2-11H Well Pad, Expand the Right-of-Way for Installation of a Utility Corridor, and Add a Gathering Line Spur to Tie Into the Saddle Butte Trunk Line

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals Addendum to authorize land use for an additional well on the Grassy Knoll #2-11H well pad, expand the Right-of-Way for installation of a utility corridor, and add a gathering line spur to tie into the Saddle Butte trunk line on the Berthold Reservation as shown on the attached map. Construction by Enerplus Resources is expected to begin in 2012.

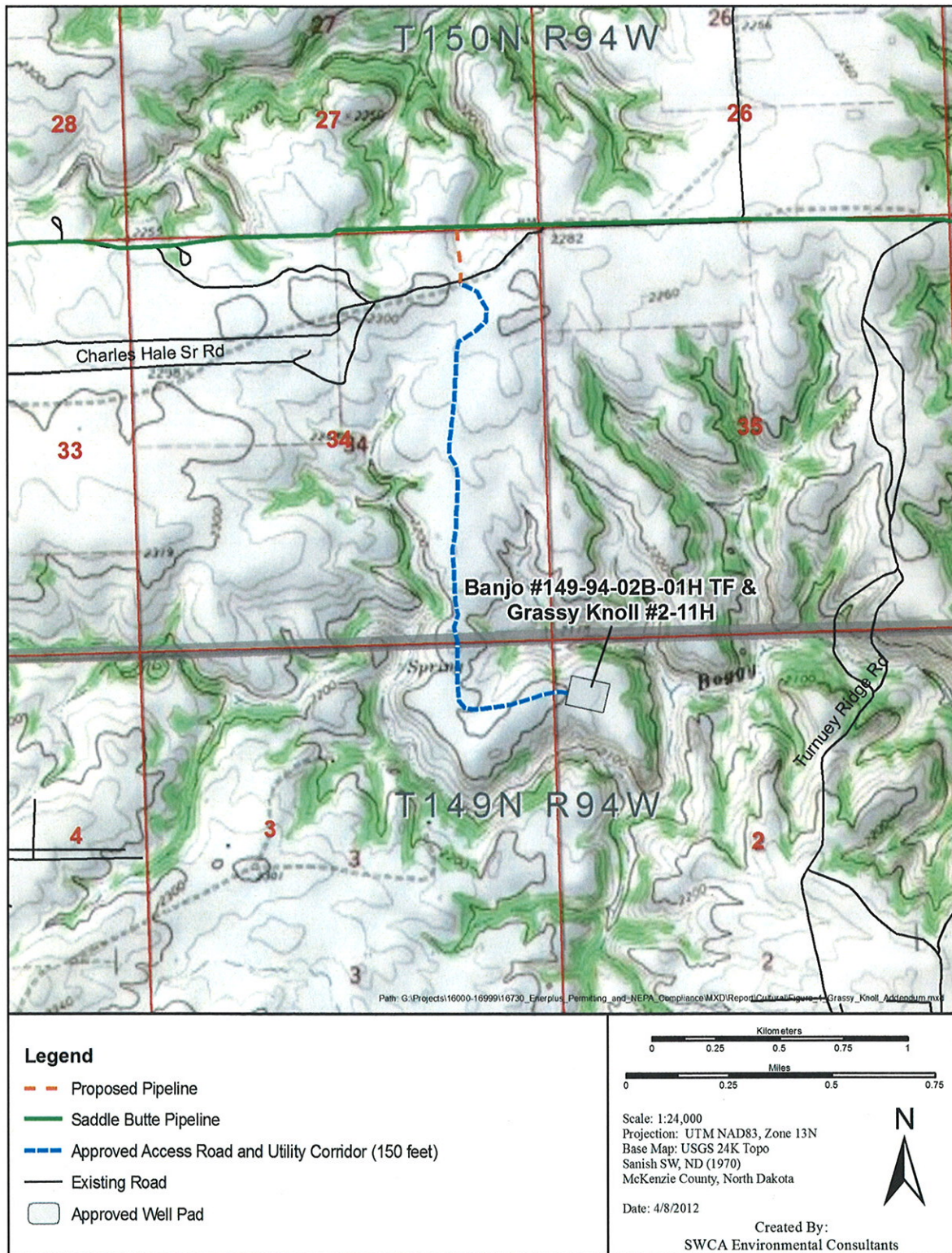
An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Earl Silk, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No Significant Impact (FONSI).

The FONSI is only a finding on environmental impacts – it is not a decision to proceed with an action and *cannot* be appealed. BIA's decision to proceed with administrative actions *can* be appealed until June 8, 2012, by contacting:

**United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Indian Appeals
801 N. Quincy Street, Suite 300, Arlington, Va 22203.**

Procedural details are available from the BIA Fort Berthold Agency at 701-627-4707.

Project locations.



ENVIRONMENTAL ASSESSMENT Addendum

United States Bureau of Indian Affairs

**Great Plains Regional Office
Aberdeen, South Dakota**



Enerplus Resources (USA) Corp.

**Addendum to Environmental Assessment to Authorize an Additional Well on the
Grassy Knoll #2-11H Well Pad, Expand the Right-of-Way for Installation of a Utility
Corridor, and Add a Gathering Line Spur to Tie Into the Saddle Butte Trunk Line**

Fort Berthold Indian Reservation

May 2012

For information contact:
Bureau of Indian Affairs, Great Plains Regional Office
Division of Environment, Safety and Cultural Resources Management
115 4th Avenue SE, Aberdeen, South Dakota 57401
(605) 226-7656

1. Purpose and Need for the Proposed Action

The purpose of the proposed action is to authorize Enerplus Resources (USA) Corp. (Enerplus) to drill an additional exploratory oil well on the Grassy Knoll #2-11H well pad, increase the approved right-of-way (ROW) width from 40 feet to 100 feet to allow for construction of an underground utility corridor along the approved access road, and add a gathering line spur to connect the Grassy Knoll #2-11H well pad gathering line to the Saddle Butte Trunk Line. The proposed action will allow for efficient delivery of oil to markets, thus reducing road traffic, air quality emissions, and the nation's dependence on foreign oil.

2. Authorities

Oil and gas exploration and development activities are conducted under authority of the Indian Mineral Leasing Act of 1938 (25 United States Code [USC] 396a, et seq.), the Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), and the Energy Policy Act of 2005 (42 USC 15801, et seq.).

3. Legal Land Description for Proposed Action

The proposed Banjo #149-94-02B-01H TF well would be located on the approved Grassy Knoll #2-11H well pad in the NW¼ NE¼ of Section 2, Township (T) 149 North (N), Range (R) 94 West (W) in McKenzie County, North Dakota, 5th Prime Meridian (P.M.), McKenzie County, North Dakota (Appendix A). The Grassy Knoll #2-11H/Banjo #149-94-02B-01H TF access road and gathering line spur would be located on tribal land originating from an existing oil development road off of Highway 22, approximately 9 miles northwest of Mandaree, North Dakota, in the NE¼ NE¼ of Section 34, T150N, R94W, 5th P.M., McKenzie County, North Dakota. The proposed access road would terminate at the approved Grassy Knoll #2-11H well pad.

4. Scope of Work for Proposed Action

The Grassy Knoll #2-11H well pad location and access road was approved by the Bureau of Indian Affairs (BIA) in 2009. Since 2009, an oil and gas road was constructed along half of the propose route, thus reducing the required length of the access road from 14,275 feet to 7,146 feet. Enerplus proposes to complete the following actions during the construction of the Grass Knoll #2-11H well pad and access road.

- 1) Drill one additional well, the Banjo #149-94-02B-01H TF, on the approved Grassy Knoll #2-11H well pad (see Appendix A). No additional surface disturbance would be associated with this action.
- 2) Install an underground utility corridor along the 7,146-foot-long access road, as described in Section 7 below (see Appendix A). To allow for the construction of a utility corridor along the access road, the previously approved 40-foot ROW would need to be increased to 100 feet. This ROW expansion would require 9.8 acres of additional short-term disturbance along the 7,146-foot-long access road. The total

6. Potential Effects

Potential impacts to natural resources may include the loss of native vegetation and wildlife habitats, soil removal and mixing, erosion during construction, and the introduction of weeds. Impacts would be mitigated through avoidance of any federally listed threatened or endangered species or wetlands, avoidance of nesting migratory birds, and implementation of best management practices to control erosion and the introduction of noxious weeds. These mitigation measures are consistent with the approved NEPA document, which received a finding of no significant impact (FONSI) (December 2009).

Potential impacts to cultural resource sites could occur as a result of direct disturbance and/or the loss of sites eligible for the National Register of Historic Places. However, potential impacts as a result of the proposed action were mitigated via field survey and subsequent avoidance of any eligible cultural resource sites within the proposed ROW.

Based the resource surveys, evaluation of potential effects and mitigation measures, and consistency with the applicable NEPA document, no new, significant direct, indirect, or cumulative impacts to natural and cultural resources are anticipated as a result of the changes proposed in this addendum. Those is attendance during the on-site agreed the location selected would limit the potential impacts to sensitive resources. The BIA recommends that the project be granted a determination of *No Historic Properties Affected* and granted clearance to proceed as planned. This determination was communicated to the THPO on April 11, 2012.

7. Pipeline/Gathering Line Construction and Safety Information

The utility corridor is sized to accommodate the installation of buried oil, gas, and water gathering pipelines and buried electric and fiber optic lines. Gathering pipelines would tie into main pipeline trunk lines.

Gathering pipelines consist of oil, gas, and water pipelines. Gathering lines are designed and sized to prevent erosion—which is an internal pipe condition caused by excessive abrasion of fine particles in the pipeline system or by excessive velocity of the transported product—by a safety factor of approximately two. Based on these criteria, the oil and gas pipelines would be steel and 12 inches or less in diameter and the water pipelines would be Fiberspar® and 6 inches or less in diameter. The gathering lines would be coated with between 14 and 16 millimeters of fusion bonded epoxy, which helps protect the pipelines against corrosive elements in the soil. Field joints are also protected by shrink sleeves. Specialty coatings are also used, as applicable, for underground fittings and bore crossings, to provide additional levels of protection from leakage or corrosion. The coating and shrink sleeves are inspected thoroughly at the time of installation, both visually and electronically. All pipelines are clearly marked following the U.S. Department of Transportation's rules and regulations, Title 49 Code of Federal Regulations Parts 192 and 195. To prevent potential erosion or rupturing of the pipeline within critical areas near Lake Sakakawea or in drainages, the placement and bore depth of gathering lines is designed based on soil types in the area and surface drainage area within the vicinity of the bore. Gathering lines will be bored underneath drainages at a

completed and a uniform perennial native vegetative cover with a density of 70% has been established on all disturbed areas not covered by permanent structures. The success of reclamation goals would be monitored for the life of the pipeline.

Work sites would be restored using excess materials, vegetation, and topsoil stockpiled for that purpose. The contractor would dispose of excess soil materials, rock, and other objectionable materials that cannot be used in restoration work at an approved landfill. All topsoil material stockpiled after construction of well pads, and following interim reclamation, would be immediately placed in windrows no higher than 2 to 4 feet, seeded with a certified weed-free annual ryegrass at a rate of 10 pounds per acre, and covered with fiber matting to prevent erosion and maintain soil fertility.

Interim Reclamation

Well Pad

The rodent holes would be backfilled and compacted, from bottom to top, immediately following release of the completion rig from the location. All disturbed lands associated with this project, including the well location and access road, would be expediently reclaimed and seeded. Disturbed lands would be reshaped to the approximate original contour of the adjacent undisturbed surface. After the well is drilled, the location would be reduced in size to create a smaller location footprint.

The cuttings pit would be closed and recontoured as soon as it is dry, but not later than 90 days from the time drilling and completion operations cease. If this timeframe cannot be met due to unforeseen circumstances, an extension would be requested from the authorized officer. The cuttings pit would not be squeezed. Following closure and backfilling, the pit area would be monitored. Any subsidence of the reclaimed pit would be corrected immediately.

If the wells prove to be productive, the fill slopes would be reduced from 2:1 slopes to 4:1 slopes and the cut slopes would be reduced from 1:1 slopes to 3:1 slopes by pushing the fill material back up into the cut. All disturbed areas would be scarified to a depth of 1 foot and topsoil would be spread evenly over reclaimed areas.

Areas with high erosion potential would also have special applications to aid reclamation. This may include one or more of the following: mulching, fiber blankets/rolls, hydro blankets, an annual cover crop (i.e., barley), water bars, and diversion ditches.

Pipeline/Gathering Line Corridor

Following trench backfilling and compaction, disturbed areas would be restored to the original land contour and the subsoil on the working side of the ROW and other work areas would be ripped to alleviate compaction. The salvaged and stockpiled topsoil would then be redistributed over the ROW and graded and erosion control measures would be installed as appropriate. If construction is planned for winter months, the topsoil will be respread over the ROW after the trench is backfilled and matting or straw will be placed over the topsoil as a barrier to aid in the prevention of subsidence.

(steep slopes, rocky areas, etc.) would be left with adequate roughness following topsoil placement to provide microsites for seed germination and to reduce soil movement.

Seedbed preparations would not be performed in areas with the desired post-construction soil characteristics. The authorized officer may review and approve the results of the seedbed preparations prior to the seed application if desired.

Seed Application

The seed mixture would be applied as directed by the BIA and no seed mixture changes would be made without approval from the authorized officer.

Seeding would normally take place in the fall after September 15 and prior to prolonged ground frost, or in the spring after the frost leaves the ground, after May 15. Seeding would be repeated until a satisfactory stand, as determined by the BIA authorized officer, is achieved. The seed mixture would be broadcast on the disturbed area after seedbed preparations are complete. After broadcasting on lands held in trust by the BIA, the seed would be lightly harrowed or raked into the ground prior to the application of stabilizing material. Seeding would not take place when wind velocities reach speeds that make uniform application of the seed mixture unlikely.

If the seed does not germinate and establish at least one desirable perennial species per square foot after two growing seasons, the contractor or Enerplus would perform a one-time reseedling during a period acceptable to the BIA. Success criteria would be based on a qualitative assessment of reclaimed areas and adjacent undisturbed habitat. If there is a need for immediate soil stabilization, a chemical soil binder may be applied, either alone or with mulch. These chemical stabilizers would be applied per the manufacturer's recommended rate.

Reclamation Monitoring and Evaluation of Reclamation Success

A monitoring program would be implemented following construction and reclamation to determine the need for additional reclamation. Monitoring would continue for an unspecified length of time, determined through mutual agreement between Enerplus and the BIA.

Monitoring would be conducted by a specialist to ensure revegetation of native herbaceous and woody species. Any identified problem areas would be remediated as soon as possible. Effectiveness of erosion and sediment control measures would be assessed during construction, following revegetation. Corrective actions would be taken on any problem areas. Any identified unauthorized vehicle access would be noted during reclamation monitoring and additional measures to block access would be taken.

Enerplus would conduct reclamation evaluations in conjunction with the BIA. Evaluations would include assessment of soil stability and revegetation success and final revegetation success would be determined with the help of the following criteria.

- Contractors will be required to ensure that vehicles arrive at the work site clean and weed free. All equipment, including personal vehicles, entering the ROW must be washed at a designated location and identified with a tag certifying that it is clean and weed free.
- In areas with existing noxious weed infestations, vegetation, soils, and trench spoil material will be stockpiled adjacent to the removal point and, following construction, will be returned to their original locations to prevent their spread along the ROW.
- Following completion of work at identified noxious weed-infested sites, the contractor will be required to use compressed air or other means to remove soil and propagules from equipment and vehicles to prevent transport along the ROW.
- Prompt re-establishment of the desired vegetation in disturbed areas is required. Seeding will occur during the frost-free periods after construction. Certified “noxious weed-free” seed will be used on all areas to be seeded.

Furthermore, Enerplus has committed to control the spread of noxious weeds within the project area during the construction, reclamation, and maintenance phases of the project. BIA personnel would assist with the identification of noxious weeds during required line maintenance activities. The authorized officer would be contacted prior to any herbicide use. If a noxious weed community is found, it would be eradicated unless the community is too large, in which case it would be controlled or contained to prevent further growth. The services of a qualified weed control contractor would be utilized.

Final Abandonment

A termination and reclamation plan would be developed and submitted to the BIA at least one year prior to abandonment. This plan would include, but would not be limited to, removal of aboveground facilities, reclamation procedures for aboveground facility sites and access roads, and an abandonment and reclamation schedule.

All surface facilities would be removed upon abandonment. Compacted areas would be ripped and, following recontouring, stockpiled topsoil would be redistributed, prepared, and revegetated. Enerplus would be responsible for reclamation until it meets BIA requirements.

Availability of soil nutrients changes over time, so soils in long-term stockpiles would be analyzed to determine nutrient status and fertilizer application rates prior to redistribution.

Upon final abandonment of the pipeline location and/or access roads related to the Enerplus project, water diversion measures would be installed and both the access roads and pipeline locations would be restored to approximately the original ground contour(s).

Because the economic and environmental costs preclude excavation and removal of the pipeline, it would be purged and abandoned in place.

Addendum to Environmental Assessment to Authorize an Additional Well on the Grassy Knoll #2-11H Well Pad, Expand the ROW, and Add a Gathering Line Spur to Tie Into the Saddle Butte Trunk Line (May 2012)



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Great Plains Regional Office
115 Fourth Avenue S.E., Suite 400
Aberdeen, South Dakota 57401



APR 11 2012

Elgin Crows Breast, THPO
Mandan, Hidatsa and Arikara Nation
404 Frontage Road
New Town, North Dakota 58763

Dear Mr. Crows Breast:

We have considered the potential effects on cultural resources of two oil well pads and a gathering line in Dunn and McKenzie Counties, North Dakota. Approximately 70.96 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed reports. No historic properties were located that appear to possess the quality of integrity and meet at least one of the criteria (36 CFR 60.4) for inclusion on the National Register of Historic Places. No properties were located that appear to qualify for protection under the American Indian Religious Freedom Act (42 USC 1996).

As the surface management agency, and as provided for in 36 CFR 800.5, we have therefore reached a determination of **no historic properties affected** for these undertakings. Catalogued as **BIA Case Number AAO-2074/FB/12**, the proposed undertakings, locations, and project dimensions are described in the following reports:

Baer, Sarah

(2012) A Class I and Class III Cultural Resource Inventory of the Snow #149-93-07A-12H and Rain #149-93-07A-12H TF Well Pad and Access Road/Utility Corridor, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

Baer, Sarah, and Alan Hutchinson

(2012) A Class I and Class III Cultural Resource Inventory of the Enerplus Resources Houston #148-94-34CH, Memphis #148-94-34CH TF and Phoenix #148-94-34CH TF Well Pad and Access Road/Utility Corridor, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

Nagra, Jenny, and Alan Hutchinson

(2012) A Class I and Class III Cultural Resource Inventory of Enerplus Resources Proposed Extension of the Pipeline/Utility Corridor for the Grassy Knoll #2-11H and Banjo #149-94-02B-01H TF Well Pad, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

If your office concurs with this determination, consultation will be completed under the National Historic Preservation Act and its implementing regulations. We will adhere to the Standard Conditions of Compliance.

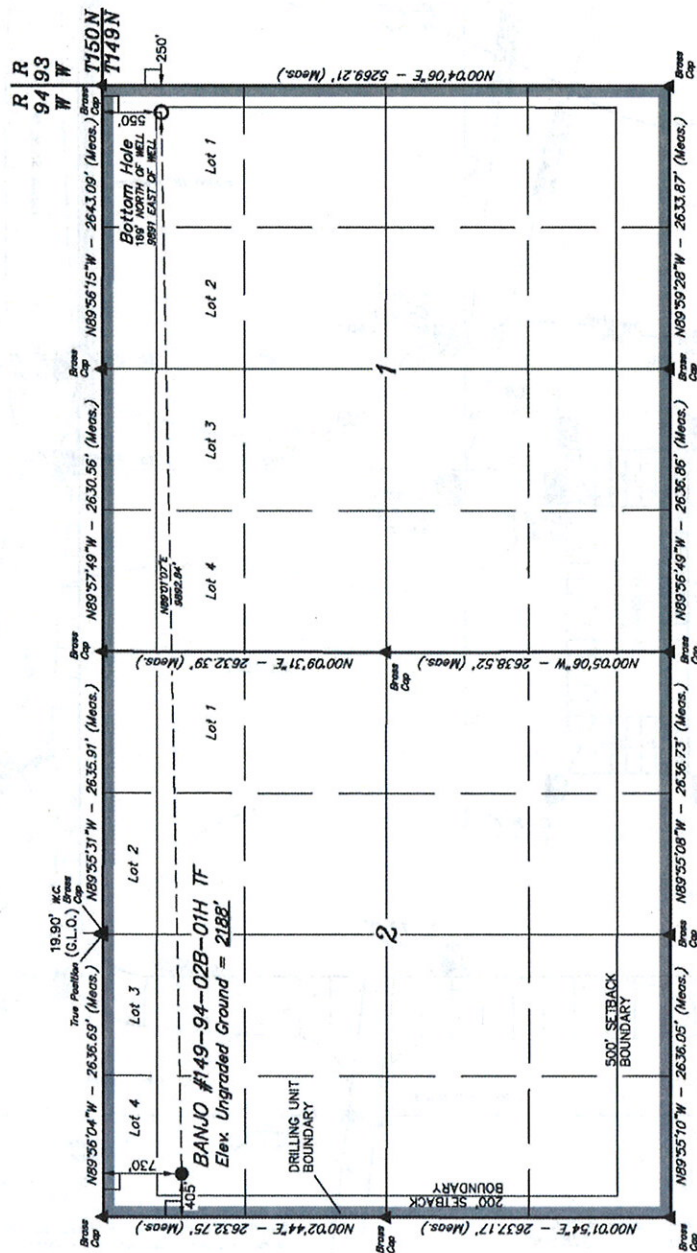
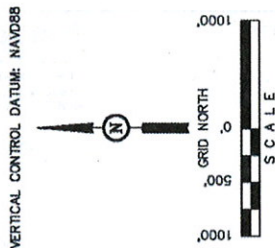
APPENDIX A

Plats, Drawings, and Diagrams for the Expanded ROW, Gathering Line Spur, and the Proposed Banjo #149-94-02B-01H TF Well (Grassy Knoll #2-11H Well Pad)

Addendum to Environmental Assessment to Authorize an Additional Well on the Grassy Knoll #2-11H Well Pad, Expand the ROW, and Add a Gathering Line Spur to Tie Into the Saddle Butte Trunk Line (May 2012)

WELL LOCATION PLAT
T149N, R94W, 5th P.M.

ENERPLUS RESOURCES (USA) CORPORATION
Well location, BANJO #149-94-02B-01H TF,
located as shown in the NW 1/4 NW 1/4 of
Section 2, T149N, R94W, 5th P.M., McKenzie
County, North Dakota.



CERTIFICATE



UTAH ENGINEERING & LAND SURVEYING
85 SOUTH 200 EAST - VERNAL, UTAH 84078
(435) 789-1017

[Derived from: N.G.S. DPILLS Solution REF FRAME: NAD_83 (CONSERVE) EPOCH: 2002.0000]			
NAD 83 (TARGET BOTTOM HOLE)	NAD 83 (SURFACE LOCATION)		
LATITUDE = 4740.33.67	LATITUDE = 4740.31.77		
LONGITUDE = 10738.33.67	LONGITUDE = 10241.31.77		
NAD 83 (TARGET SURFACE)	NAD 83 (SURFACE LOCATION)		
LATITUDE = 4740.33.67	LATITUDE = 4740.31.77		
LONGITUDE = 10738.33.67	LONGITUDE = 10241.31.77		
NAD 83 (TARGET SURFACE)	NAD 83 (SURFACE LOCATION)		
LATITUDE = 4740.33.67	LATITUDE = 4740.31.77		
LONGITUDE = 10738.33.67	LONGITUDE = 10241.31.77		

SCALE	1" = 100'	DATE SURVEYED:	06-09-11	DATE DRAWN:	06-17-11
PARTY		REFERENCES			
WEATHER	FILE	D.D.	M.C.	C.C.	G.L.O. PLAT
WARM		ENERPLUS RESOURCES (USA) CORPORATION			

LEGEND:

- L = 90° SYMBOL
 ● = PROPOSED WELL HEAD.
 ▲ = SECTION CORNERS LOCATED.
 △ = SECTION CORNERS
 RE-ESTABLISHED.
 (Not Set on Ground.)

Addendum to Environmental Assessment to Authorize an Additional Well on the Grassy Knoll #2-11H Well Pad, Expand the ROW, and Add a Gathering Line Spur to Tie Into the Saddle Butte Trunk Line
(May 2012)

